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OFFICE OF PETITIONS

In re Application of	:	
Theresa O'Keefe et al.	:	
Application No. 10/733,563	:	ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. M2051-701210	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, January 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2008. A Notice of Abandonment was mailed on August 15, 2008.


The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, with the required fee of \$510, (2) the petition fee of \$1540, and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal is accepted as being unintentionally delayed.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,050 extension of time fee submitted with the petition on September 23, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1643 for processing of the RCE and any action that is required by the Examiner in the normal course of business.



Carl Friedman
Petitions Examiner
Office of Petitions